

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Ross William Ulbricht,

Petitioner

v.

United States of America,

Respondent.

19 Civ. 7512 (LGS)

Order re: Attorney-Client Privilege Waiver (Informed Consent)

WHEREAS Ross William Ulbricht has moved for relief from his conviction pursuant to 28 U.S.C. §2255 on the ground of ineffective assistance of counsel (the “2255 Petition”); and

WHEREAS the Government, after reviewing the motion papers, has concluded that the information from Petitioner’s former trial counsel, Joshua Dratel, Esq. of Joshua L. Dratel P.C. (“Counsel”), is needed in order to allow the Government to respond to the motion, and that an affidavit from Counsel is necessary for the Government to properly respond to the 2255 Petition; and

WHEREAS the Court, after reviewing the motion papers, is satisfied that testimony of Counsel is needed in order to allow the Government to respond to the 2255 Petition; and

WHEREAS by making the motion, the movant has waived the attorney-client privilege as a matter of law; and

WHEREAS the Court is cognizant that, absent court order or informed consent, ethical concerns may inhibit Counsel from disclosing confidential information relating to a prior client even in the absence of a privilege, *see, e.g.*, ABA Standing Comm. on Ethics and Prof. Responsibility Formal Op. 10-456 (July 14, 2010), *Disclosure of Information to Prosecutor When Lawyer’s Former Client Brings Ineffective Assistance of Counsel Claim*,

IT IS HEREBY ORDERED that Counsel shall give sworn testimony, in the form of an affidavit, addressing the allegations of ineffective assistance of counsel made by Petitioner, by _____; and it is further

ORDERED that the Government has 30 days from the submission of Counsel's affidavit to prepare a response to the 2255 Petition, regarding the issues raised in the 2255 Petition. Petitioner shall file his reply, if any, within 30 days of the Government's response.

Dated: New York, New York
_____, 2019

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE